

Frequently Asked Questions:

**BUSINESS DEVELOPMENT DISTRICTS
(BDD)**



BUSINESS DEVELOPMENT AND REDEVELOPMENT DISTRICTS

A **Business Development and Redevelopment District (BDD)** is a special financing program created by a municipality to encourage redevelopment within targeted areas of the community. This program enables municipalities to attract development on vacant properties and redevelop existing properties within a designated BDD Area. New business development will increase local services and amenities, increase employment opportunities, and increase sales and property tax revenues for the municipality, as well as for other taxing bodies. This economic development tool is very flexible and allows municipalities to collect up to 1.0% additional retail sales tax and hotel tax to fund any project that benefits the BDD. Business Development Districts allow municipalities to make and enter into all contracts necessary or incidental to the furtherance of a BDD Plan – including payments to private developers for eligible business district project costs.

Frequently Asked Questions

The attached Illinois Department of Revenue publication (*PTAX-1002-20*) addresses many of the common questions relating to the *Business District Development and Redevelopment Act* (65 ILCS 5/Art. 11 Div. 74.3 *et. seq.*). Here are a few additional questions that municipalities often have regarding the process to establish a Business Development District and the potential uses of funds:

1. What types of costs are eligible for reimbursement within a BDD?

"Business district project costs" include the sum-total of all costs incurred by a municipality, other governmental entity, or nongovernmental person in connection with a business district, in the furtherance of a business district plan, including, without limitation, the following:

- a. **Plans & Studies:** Costs of studies, surveys, development of plans and specifications, implementation and administration of a business district plan, and personnel and professional service costs including architectural, engineering, legal, marketing, financial, planning, or other professional services, provided that no charges for professional services may be based on a percentage of tax revenues received by the municipality;
- b. **Land Acquisition:** Property assembly costs, including but not limited to, acquisition of land and other real or personal property or rights or interests therein, and specifically including payments to developers or other nongovernmental persons as reimbursement for property assembly costs incurred by that developer or other non-governmental person;
- c. **Site Preparation:** Site preparation costs, including but not limited to clearance, demolition or removal of any existing buildings, structures, fixtures, utilities, and improvements and clearing and grading of land;
- d. **Public Infrastructure:** Costs of installation, repair, construction, reconstruction, extension, or relocation of public streets, public utilities, and other public site improvements within or without the business district which are essential to the preparation of the business district for use in accordance with the business district plan, and specifically including payments to developers or other nongovernmental persons as reimbursement for site preparation costs incurred by the developer or nongovernmental person;
- e. **Renovations to Existing Buildings:** Costs of renovation, rehabilitation, reconstruction, relocation, repair, or remodeling of any existing buildings, improvements, and fixtures within the business district, and specifically including payments to developers or other nongovernmental persons as reimbursement for costs incurred by those developers or nongovernmental persons;
- f. **Construction of New Buildings:** Costs of installation or construction within the business district of buildings, structures, works, streets, improvements, equipment, utilities, or fixtures, and specifically including payments to developers or other nongovernmental persons as reimbursements for such costs incurred by such developer or nongovernmental person;



- g. **Reduced Financing Costs:** Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations, payment of any interest on any obligations issued under this Law that accrues during the estimated period of construction of any development or redevelopment project for which those obligations are issued and for not exceeding 36 months thereafter, and any reasonable reserves related to the issuance of those obligations; and
- h. **Relocation Costs:** Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or state law.

2. *What additional powers within a designated BDD Area are provided to a municipality?*

Among the powers granted by the BDD Act, a municipality may:

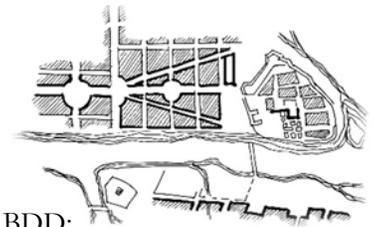
- a. approve all development and redevelopment plans within the BDD;
- b. acquire, manage, convey or otherwise dispose of real and personal property for the purposes of a development or redevelopment plan;
- c. fix, charge, and collect fees, rents, and charges for the use of any building, facility, or property or any portion thereof owned or leased by the municipality;
- d. make and enter into all contracts necessary or incidental to the implementation and furtherance of a business district plan;
- e. apply for and accept grants, guarantees, donations of property or labor or any other thing of value for use in connection with a BDD project;
- f. clear any area within a business district by demolition or removal of any existing buildings, structures, fixtures, utilities, or improvements, and to clear and grade land;
- g. install, repair, construct, reconstruct, or relocate public streets, public utilities, and other public site improvements;
- h. renovate, rehabilitate, reconstruct, relocate, repair, or remodel any existing buildings, structures, works, utilities, or fixtures;
- i. construct public improvements, including but not limited to buildings, structures, works, utilities, or fixtures;
- j. impose **up to 1.0% additional retailers' occupation tax and service occupation tax** (¼ percent increments) for the planning, execution, and implementation of business district plans. BDD sales tax **does not** apply to sales of qualifying food, drugs, and medical appliances. Items that must be titled or registered by an agency of the State of Illinois are exempt from BDD sales tax as well. The Illinois Department of Revenue (IDOR) administers and enforces BDD sales tax;
- k. impose **up to 1.0% additional hotel operators' occupation tax** (¼ percent increments) in the business district for the planning, execution, and implementation of business district plans. The municipality is responsible for administering and enforcing the BDD-hotel operators' occupation tax;
- l. issue debt obligations in one or more series bearing interest at rates determined by the corporate authorities of the municipality to provide for the payment of eligible BDD project costs; and
- m. otherwise pay or cause to be paid eligible business district project costs, including costs relating to the establishment and annual administration of the BDD.



3. ***What is the maximum life of a BDD in years?*** A BDD may be established for a period not exceeding twenty-three (23) years.
4. ***How does a retailer know it is subject to the BDD sales tax?*** After a BDD is established, IDOR sends each retailer within the BDD Area a letter informing them of the tax rate and the date the rate takes effect.
5. ***How is a BDD different from a Tax Increment Financing (TIF) District?*** The statutory process to establish a BDD is less complicated than creating a TIF District, because a BDD does not affect the collection or distribution of real estate taxes. The BDD Fund receives increased retail sales taxes and/or hotel taxes generated by commercial-retail development occurring within the BDD Area. As is the case with TIF, a BDD Area must be a contiguous boundary and the municipality must prepare a BDD Redevelopment Plan.
6. ***How long does it usually take to establish a BDD?*** Depending on the size of the BDD Area, the availability of business addresses and property data, a Business Development District can usually be established within 60-90 days by a simple majority vote of the municipality's corporate authority. Larger, more complicated boundaries may require additional time.
7. ***Can a municipality establish BDD and TIF for the same area and use both tools to incentivize private redevelopment?*** Yes. TIF, BDD and Enterprise Zones can effectively be used together to encourage new private investment.
8. ***What are the steps a municipality must undertake to establish a BDD and for which Jacob & Klein, Ltd. and The Economic Development Group, Ltd. provide legal and consulting services?***

Among the services provided, J&K and EDG will:

- a. prepare an estimated time line for establishing the BDD;
- b. help the municipality define a contiguous BDD boundary;
- c. prepare all required studies, research and reports necessary to establish the BDD;
- d. assist the Village with the preparation of a Business District Development and Redevelopment Plan;
- e. assist the Village with preparing required publications and notices;
- f. conduct and moderate a public hearing;
- g. prepare and present all ordinances or resolutions for designating and establishing the BDD area, plan and projects;
- h. assist the municipality with exercising its authority to impose applicable retailers' occupation taxes, service occupation taxes and hotel operators' occupation taxes within the BDD area; and
- i. assist the municipality with annually administering the Special Business District Tax Allocation Fund, negotiate BDD Redevelopment Agreements, approve eligible BDD project costs and create innovative programs using BDD funds pursuant to the Act.



For more information about establishing a Business Development District, please contact:

**Jacob & Klein, Ltd. and
The Economic Development Group, Ltd.
1701 Clearwater Avenue, Bloomington, IL 61704
Ph: (309) 664-7777 / Website: www.tifillinois.com**

APPENDIX A

Illinois Department of Revenue Publication (PTAX-1002-20):

Business District Development and Redevelopment Sales Tax

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Local Governments’ Guide to Tax Allocations

Business District Development and Redevelopment Sales Tax

What is the Business District Sales Tax?

The Business District Development and Redevelopment Law authorizes a municipality to impose a tax designed to fund the development or redevelopment of certain designated areas within a municipality. The municipality may impose this tax if it has a development or redevelopment plan for an area of the municipality that

- is contiguous (*i.e.*, the properties within the area border each other),
- includes only parcels of real property that will directly and substantially benefit from the proposed plan, and
- is blighted, as defined in the Illinois Municipal Code (see 65 ILCS 5/11-74.3-5).

The business district sales tax is imposed by the municipality in the form of the Business District Retailers’ Occupation Tax and Business District Service Occupation Tax.

Is voter approval required?

No. Voter approval is not required.

What must a municipality do to establish this tax?

The corporate authorities of the municipality must first approve a business district plan and designate a business district as outlined in 65 ILCS 5/11-74.3-2. Next, the municipality must impose the tax by ordinance as outlined in 65 ILCS 5/11-74.3-3 and 5/11-74.3-6. The municipality must then file a certified copy of the ordinance with the Illinois Department of Revenue (IDOR).

What is the deadline for filing the ordinance?

If IDOR receives a certified copy of a proper ordinance **and all additional required information** on or before

- April 1, the tax will become effective July 1 of the same year, or
- October 1, the tax will become effective January 1 of the following year.

The ordinance and all additional required information must be sent to the address below.

**LOCAL TAX ALLOCATION DIVISION
ILLINOIS DEPARTMENT OF REVENUE MC 3-500
101 WEST JEFFERSON STREET
SPRINGFIELD IL 62702**

Business District Development and Redevelopment Sales Tax

What information is required?

Any municipality that has met the requirements to establish a business district and adopted an ordinance imposing both a Business District Retailers' Occupation Tax and a Business District Service Occupation Tax must provide IDOR with

- a certified copy of the ordinance imposing both the retailers' and service occupation taxes for the business district;
- a detailed map of the business district boundaries;
- a copy of the development or redevelopment plan for the business district; and
- a detailed list of each address located within the district's boundaries. Each address must be registered with the United States Postal Service (USPS). The list must contain the street name, street number, city, state, and ZIP Code for each piece of property located within the district. This information is used to identify retailers that are within the business district. IDOR will notify those retailers to collect the additional tax.

Can the business district boundaries be changed?

Yes. The municipality can change the boundaries of a designated business district as provided in the Business District Development and Redevelopment Law.

If the municipality changes the boundaries of its business district, it must provide IDOR with

- a certified copy of the ordinance (if the business district tax rate was increased or decreased)
- an updated, detailed map of the business district boundaries;
- an updated copy of the development or redevelopment plan for the business district (This is only required if there are additional costs. If there are no additional costs, a statement must be provided to IDOR.); and
- a detailed list of each new address located within the district's boundaries. The addresses must be registered with the USPS. The list of new addresses must contain the street name, street number, city, state, and ZIP Code for each piece of property located within the district.

The ordinance and all additional required information listed above must be sent to the Local Tax Allocation Division (LTAD) by the ordinance filing deadline discussed on page 1.

Business District Development and Redevelopment Sales Tax

Can a business district address be added, changed, or deleted?

Yes. Adding, changing, or deleting addresses within an existing business district with no business district boundary or rate changes simply requires a message sent electronically through your MyLocalTax account or a letter to be sent to LTAD. Required information includes:

- the name of the business district and the addresses that will be added, changed, or deleted (Addresses that will be added or changed must be registered with the USPS.) and
- the street name, street number, city, state, and ZIP Code for each new address to be included in the district.

The addresses must be sent to LTAD by the ordinance filing deadline discussed on page 1.

What is required to change or discontinue the tax rate of an existing business district?

A certified ordinance is required to change or discontinue this tax. The ordinance must be sent to LTAD by the ordinance filing deadline discussed on page 1.

What review process does IDOR follow for the information submitted?

Each ordinance will be reviewed for approval by two offices in IDOR. When needed, each office will work with you to bring the requirements into compliance. You will receive a separate notification of approval from each of these offices. The process we follow is explained below:

- The Legal Services Office determines if the ordinance language is legally sufficient to impose the tax. During this process, it is possible IDOR may find that an amendment to the ordinance language is required. You will be notified in writing of the Legal Service Office's determination.
- LTAD will compare the address list provided to the most current address information from the USPS.
 - IDOR will send a Business District Address Verification comparison list to the municipality. The municipality must approve which address should be used.
 - From the approved comparison list, IDOR will provide a Business District Taxpayer Listing of any registered retailer doing business at the approved addresses. The municipality will be required to confirm whether the list of retailers is correct and report taxpayers that should be included or should not be included on the taxpayer list to LTAD.

Once your municipality has received approval from both of our offices (Legal Services and LTAD), IDOR will notify all affected retailers of the rate change. Time is critical to ensure that the approval process can be completed and that a business district sales tax rate and the inclusion of addresses within the business district take effect on the intended date. Addresses cannot be added, changed, or deleted after the filing deadline.

Business District Development and Redevelopment Sales Tax

How time sensitive is the information that is required to be submitted?

The ordinance and required information should be sent to IDOR as soon as possible after passage by the municipality. This will allow time for IDOR and the municipality to complete the approval process and correct any problems that may arise before the April 1 or October 1 filing deadline.

If the approval process is not completed in time, the tax increase or the inclusion of certain addresses requested by your municipality may be delayed until the next implementation date.

To what sales does the tax apply?

The same items of general merchandise reported on Line 4a of Form ST-1 and Form ST-2 that are subject to state sales tax are also subject to business district sales tax. Business district sales tax must be collected on general merchandise sold at the addresses reported to IDOR that are located within the business district regardless of whether the merchandise is sold at retail or transferred as a part of a sale of service.

What types of sales are *not* subject to this tax and will *not* generate more revenue?

Business district sales tax **does not** apply to

- sales of qualifying food, drugs, and medical appliances*(reported on Line 5a of Form ST-1 and Form ST-2),
- items that must be titled or registered by an agency of Illinois state government (reported on Form ST-556, Sales Tax Transaction Return or Form ST-556-LSE, Transaction Return for Leases), or
- taxpayers that register with IDOR as a Changing Location to conduct intermittent retail sales in your jurisdiction but do not have a permanent place of business within your jurisdiction.

At what rate and for how long can the tax be imposed?

Business district sales tax may be imposed in 0.25% increments and cannot exceed 1%. The tax can be imposed for no longer than 23 years.

Please note that the municipality must file a certified ordinance with LTAD by the ordinance filing deadline to rescind the business district sales tax. IDOR will notify, through an informational bulletin called the Sales Tax Rate Change Summary, each retailer located at an address within the business district that has been reported to the Illinois Department of Revenue. The informational bulletin lists the various locally imposed taxes that will take effect or whose rates will change January 1 or July 1, the new tax rate, and the date the rate takes effect.

Business District Development and Redevelopment Sales Tax

How are retailers notified about this tax?

Business districts that add, change, or delete an address but have no rate change will not be included on the informational bulletin. IDOR will send a letter to the businesses informing them of the tax rate and the date the rate takes effect.

Can we get a listing of the retailers located within the business district?

Yes. Municipalities can request a list of retailers located within their business district either electronically through your MyLocalTax account or by contacting our office using the information below.

LOCAL TAX ALLOCATION DIVISION (3-500)

ILLINOIS DEPARTMENT OF REVENUE

101 WEST JEFFERSON

SPRINGFIELD IL 62702

Phone: 217 785-6518

Fax: 217 785-6527

rev.localtax@illinois.gov

Will a separate check be issued for the distributions from this tax?

Yes. The check or direct deposit you receive from the State Comptroller for business district sales taxes will be separate from other allocations. This information is also displayed on our website, tax.illinois.gov, under Local Governments — Monthly Detailed Disbursement Amounts. The municipality must deposit this money into a special “Business District Tax Allocation Fund” to be used for paying eligible costs associated with the business district project.

When will the municipality receive its first tax collection?

For taxes imposed effective January 1, the first disbursement will be made to local governments during the following April.

For taxes imposed effective July 1, the first disbursement will be made to the local governments during the following October.

Is there other general information I should know?

Taxpayers are allowed to take a discount for timely filing and payment of these taxes. Any allowable discount that is taken is reflected in the local government distributions.

An administration fee is retained by IDOR.

Statutory Reference

[65 ILCS 5/11-74.3-1](#), *et seq.*